

MKB:MT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
- - - - -X

M-02-019

UNITED STATES OF AMERICA

-against-

COMPLAINT AND AFFIDAVIT
IN SUPPORT OF APPLICATION
FOR AN ARREST WARRANT

DWAYNE PRYCE,

(T. 18, U.S.C. § 371)

Defendant.

- - - - -X

EASTERN DISTRICT OF NEW YORK, SS:

JOHN J. CAPOBIANCO, being duly sworn, deposes and says that he is a Detective with the New York Police Department ("NYPD"), who is cross-designated to the Joint Firearms Task Force with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), duly appointed according to law and acting as such.

Upon information and belief, in or about October 2008, within the Eastern District of New York and elsewhere, the defendant DWAYNE PRYCE, together with others, not being a licensed importer, licensed manufacturer, licensed dealer or licensed collector of firearms, did knowingly and willfully conspire to transport into and receive in the State where he resided, to wit: the State of New York, firearms purchased and otherwise obtained by him outside of that State, in violation of Title 18, United States Code, Section 922(a)(3).

(Title 18, United States Code, Section 371)

1

The source of your deponent's information and the grounds for his belief are as follows:^{1/}

1. I have been a Special Agent with the ATF for fifteen years, during which time I have investigated federal firearms offenses and firearms trafficking in New York City and throughout the United States. The information set forth in this complaint is based on my own observations, interviews with a confidential witness, interviews with law enforcement officers and review of records.

2. In or about October 2008, PRYCE requested that his then-girlfriend, hereafter referred to as confidential witness ("CW"), purchase guns for him when she returned to Kentucky, where she was living at the time. PRYCE made the request verbally and in e-mails that he sent to CW from his AOL e-mail account. The e-mails from Pryce were sent from the e-mail address "corporalpryce@aol.com." Records obtained from America Online show that the corporalpryce@aol.com e-mail address is registered to an individual named Dwayne Pryce in Brooklyn, New York. The e-mails from PRYCE include photographs of the guns that PRYCE wanted CW to purchase, as well as information about the size, caliber, price and number of guns that he wanted.

^{1/} Because the purpose of this affidavit is to establish only probable cause to obtain an arrest warrant, I have not set forth a description of all the facts and circumstances of which I am aware.

3. PRYCE instructed CW to purchase the firearms using her own money and told her that he would reimburse her as soon as he received the guns in New York.

4. On or about October 18, 2008, CW printed the e-mails from PRYCE and took them to a firearms dealer in the State of Kentucky (the "Kentucky dealer").

5. While standing in front of the display case at the Kentucky dealer, CW called PRYCE's cell phone from her cell phone and asked PRYCE to explain exactly what he wanted her to purchase. During this conversation, the clerk behind the display case asked CW to hand him her cell phone.

6. CW told the clerk that she was speaking to her boyfriend, that he was in New York City, and that she wanted to purchase guns for him. The clerk took the cell phone and spoke to PRYCE directly about various makes, models and prices of firearms that were available at that time from the Kentucky dealer's inventory.^{2/}

7. Subsequently, the clerk handed CW's cell phone back to CW. PRYCE told CW to purchase the two firearms that he had discussed with the clerk. CW purchased the firearms. The

^{2/} A review of records obtained from Sprint indicates that the CW called PRYCE on October 18, 2008 at approximately 12:07 p.m., 1:32 p.m., 1:40 p.m., 1:57 p.m., 4:44 p.m. and 10:18 p.m. Subscriber records obtained from Sprint also confirm that the telephone number that the CW called from her cell phone at these times is registered to Dwayne Pryce.

Kentucky dealer provided CW with a printed invoice, which indicates the purchase of two Jimenez .38 caliber pistols, both model number JA380, bearing the serial numbers 092530 and 092462, for a total purchase price of \$317.58. A review of the Multiple Sale Summary record obtained from the ATF National Tracing Center confirms that on October 18, 2008, the Kentucky dealer sold two Jimenez model JA380 .38 caliber pistols to CW. The serial numbers recorded on the Multiple Sale Summary match the serial numbers indicated on the invoice that the Kentucky dealer provided to the CW.

8. After purchasing the guns, CW called PRYCE and told him that she had the guns he wanted. PRYCE instructed CW to ship the firearms to him in Brooklyn, New York via FedEx. PRYCE provided CW with an address in Brooklyn, New York. PRYCE told CW not to inform FedEx that she was sending the guns in the package.

9. In or about October 2008, CW packed the guns together with some photographs and cassette tapes and shipped them to Brooklyn, New York via FedEx from a FedEx Kinko's location near her home in Kentucky. CW did not inform FedEx that she was shipping firearms.

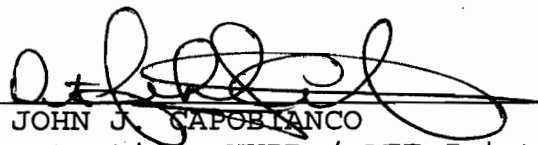
10. When he received the FedEx package containing the guns, PRYCE called CW.^{3/} PRYCE told CW that his aunt had signed

^{3/} A review of records obtained from FedEx confirms that a FedEx package was received at the Brooklyn address on October 22, 2008.

for the FedEx package and that he had picked it up from her after work that day. PRYCE said he liked the guns and told CW that he wanted her to buy more for him.

11. Subsequently, based on information provided by the CW, NYPD officers recovered the two Jimenez .38 caliber pistols from PRYCE. PRYCE signed a receipt stating that he presented the firearms to a NYPD detective on January 19, 2009.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant DWAYNE PRYCE so that he may be dealt with according to law.


JOHN J. CAPOBIANCO
Detective, NYPD / ATF Joint
Firearms Task Force

Sworn to before me this
19th day of August, 2009

DGE

~~EASTERN DISTRICT OF NEW YORK~~